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| 10/723,912 | 11/26/2003 | Jerry Michael Evoy | PQH03-046 | 9798 |

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| EXAMINER |
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CHU, GABRIEL L

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| ART UNIT | PAPER NUMBER |
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2114

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,912

Applicant(s)

EVOY, JERRY MICHAEL

Examiner

Gabriel L. Chu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-10,13-25 and 27-34 is/are rejected.
- 7) ☒ Claim(s) 2,11,12,26,35 and 36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. **Claims 13-24 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.** The body of this rejection may be found in the prior office action.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. **Claims 1, 3-8, 10, 13, 15-20, 22, 25, 27-32, 34 rejected under 35 U.S.C. 102(b) as being anticipated by US 5133075 to Risch.** The body of this rejection may be found in the prior office action.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. **Claim 9, 21, 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 5133075 to Risch as applied to claim 1, 13, 25 above, and further in view of "COM" by Microsoft Computer Dictionary (MSCD).** The body of this rejection may be found in the prior office action.

Allowable Subject Matter

7. Claims 2, 11, 12, 14, 23, 24, 26, 35, 36 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments filed 17 June 2006 have been fully considered but they are not persuasive. Regarding Applicant's argument (page 11) concerning the rejection under 35 USC 101, amending the specification to remove some (but notably not all) of the matter regarding RF links is not viewed to overcome the rejection. Applicant appears to believe that the matter covering a signal transmitted through the air is solely offending. Under the interim guidelines, any claim that may be interpreted to claim only the signals, be they propagated by air, electricity, optics, or otherwise, is viewed to cover ineligible subject matter. Applicant may amend the claims as previously suggested by Examiner incorporating the "storage medium" language, and/or alternatively/additionally disavow any claim to such non-statutory subject matter. Regardless, this decision is beyond the control of Examiner. If Applicant wishes to pursue this matter, Applicant is invited to appeal.

9. Regarding Applicant's argument (page 13) that Risch does not disclose a snapshot of the specified resources representing states of the specified resources at a point in time, instead disclosing attributes of an object in an object-oriented database system, Applicant has chosen to use such broad terms as state, resources, module, parameters, and objects in claiming the subject matter of Applicant's invention. Even, or

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particularly, in view of Applicant's broad definition of a snapshot as a "collection of objects representing the system states at a point in time", a system state as "a run-time state of system resources at a particular instant in time", a "user defines the parameters for the specified resources...", there is nothing prohibiting the interpretation of Risch to cover the broad language claimed by Applicant. Examiner further notes that in the portions pointed to by Applicant in Applicant's specification (as opposed to the limiting claims), Applicant has liberally used the term "may", which is clearly not definitively limiting, regardless of not being claimed.

While Risch has disclosed such a database system, there is nothing prohibiting the interpretation of a "resource", "object", "system", or "state" as corresponding terms in such a database system. If Applicant intends for this to be limited to a system other than a database system, Applicant is advised to use such language.

Further, regarding "point in time", from the title of Risch, "monitoring changes in attribute values". Clearly, the values monitored by Risch are from a point in time.

10. Regarding Applicant's argument (page 13) that Risch's attribute "merely gives a data value" that "does not provide the ability to detect changes in the system state of a complex computer system in real time", this is not claimed. Further, the portion of the rejection citing "attributes" corresponds with Applicant's "parameters". It is not clear how an attribute is not something as broad as a parameter.

11. Regarding Applicant's argument (page 13) that Risch does not receive at a snapshot module a request from a user to monitor a set of specified resources, arguing that Risch "merely discloses that a client requests to monitor an attribute of an object in

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the database”, Risch does disclose the monitoring of plural such attributes that are specified by a client. Applicant appears to reading in a more narrow embodiment of the invention than is claimed.

12. Regarding Applicant’s argument (page 14) that “specified resources”, in view of the specification, are no the same as attributes of an object in a database, Examiner notes that no portion of the specification has been cited to support such an assertion. Regardless the term “specified resources” holds no special meaning in the art and is comprised of generic language that has been interpreted to refer to a resource that is specified, which appears to be broader than a narrow interpretation that Applicant has read into the claim language.

13. Regarding Applicant’s argument (page 14) that Risch does not request at a snapshot module the creation of at least one monitor, but merely discloses that “preferably a monitor is defined for a given attribute in advance of any request to monitor that attribute”. Applicant has in no certain terms defined what a snapshot module must comprise. Clearly, Risch has disclosed that a monitor may be established for a monitored attribute. Whatever mechanism used by Risch in accomplishing this task meets the limitation of a snapshot module used to establish a monitor as set forth by Applicant. That Risch “does not disclose the snapshot module and the monitor request module as disclosed in the Specification” as demanded by Applicant clearly is not claimed.

14. Regarding Applicant’s argument (page 14) that Risch does not disclose creating at least one monitor using the monitor request module, but merely discloses that “a

monitor is defined for a given attribute in advance...”, clearly whatever mechanism uses to create (define) a monitor operates as the monitor request module as claimed by Applicant”. That Risch “does not disclose the monitor request module as disclosed in the Specification” as demanded by Applicant clearly is not claimed.

15. Regarding Applicant’s argument (page 14) that parameters of specified resources that represent a system state are not the same as a function that accesses an attribute of an object in a database system, Examiner notes that Examiner has also cited the following passages: from line 59 of column 7, “The Define Monitor procedure preferably includes creating means for keeping a record of the value of the attribute being monitored. More particularly, an Attribute Value table is created (block 503) for the monitored function. This table includes positions for recording the value of the attribute accessed by the function.” and from line 65 of column 7, “Later, when monitoring is begun, the then-current value of that attribute is calculated and entered in the table. Comparison of that value with the of the monitored attribute after an update tells the system whether the monitored value was in fact changed as a result of the update.” While Applicant may assume that the “functions” of Risch correspond with the claimed “parameters”, truly any such mechanism of Risch that meets the broad “parameter” language may be used. For example, Risch’s attributes may be such a “parameter”. Clearly, in Risch, values to be monitored or that are being monitored are loaded into the table for monitoring.

16. Regarding Applicant’s argument (page 15) that Risch does not create a set of first “objects” “corresponding” to a snapshot of the “specified resources” “based” on the

loaded "parameters", Examiner has herein emphasized the breadth of Applicant's language. Examiner further notes that in this portion of the arguments, Applicant does not actually provide any reasoning for Applicant's disagreement, instead merely asserting that there is no "correspondence" or disclosure.

17. Regarding Applicant's argument (page 15) that Risch does not "monitor" the first objects using the monitor, asserting that "monitoring an attribute for a change in its value is not equivalent to monitoring the first objects corresponding to a snapshot of the specified resources, the snapshot representing states of the specified resources at a point in time, Applicant has merely alleged that the limitation and Risch are not the same, again providing no reasoning. As pointed out by Examiner repeatedly above, the terminology chosen by Applicant to claim Applicant's invention is overly broad and does not limit the invention to the scope argued by Applicant.

18. Regarding Applicant's argument (page 17) that there is no motivation to combine Risch and MSCD because there is no teaching in Risch that the method can be implemented with programs running on Windows, where COM objects are used, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). And further, from the rejection, a person of ordinary skill in the art at the time of the invention would have been motivated to use a COM object because it "can be

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assembled into programs or add functionality to existing programs” and further, because Risch is interested in adding functionality to a system, from line 7 of column 1, “The present invention relates generally to database systems, and more particularly to a method of monitoring changes in values of attributes of objects in object-oriented database systems.”

Further, using Windows in a computing environment, virtually any computing environment, but particularly databases (for example, MS Access), is very well known and motivated in the art.

Conclusion

19. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabriel L. Chu whose telephone number is (571) 272-

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3656. The examiner can normally be reached on weekdays between 8:30 AM and 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on (571) 272-3644. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gabriel L. Chu
Examiner
Art Unit 2114

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